

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION**

MONTEREY RESOURCES, LLC,

Plaintiff,

vs.

**405 ARAPAHOE, LLC AND ARENA
INVESTORS, LP,**

Defendants.

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Civil Action No. _____

DEFENDANTS' NOTICE OF REMOVAL

Pursuant to 28 U.S.C. § 1446, Defendants 405 Arapahoe, LLC and Arena Investors, LP (together, "Defendants") file this Notice of Removal (the "Notice") and remove this case to the United States District Court for the Northern District of Texas, Dallas Division.

I.

PRELIMINARY STATEMENT

Pursuant to 28 U.S.C. § 1332, this Court has jurisdiction over the State Court Action because: (1) there is complete diversity of citizenship between Plaintiff and Defendants; and (2) the stated amount in controversy exceeds \$75,000, exclusive of interest and costs. Plaintiff is a citizen of Texas. Defendants are citizens of Delaware and New York. The Petition also seeks over \$1,000,000 in relief. As a result, the State Court Action is removable under 28 U.S.C. §§ 1332(a)(2) and 1441(a).

II.

FACTS RELATED TO REMOVAL

1. On April 16, 2019, Plaintiff Monterey Resources, LLC (“Plaintiff”) sued Defendants in the District Court of Dallas County, Texas, by filing an Original Petition and Request for Disclosure (“Petition”).

2. The Petition states, in relevant part, that “Plaintiff seeks monetary relief over \$1,000,000.” Pet. at ¶ 7.

3. The Petition identifies Plaintiff as a “limited liability company formed under the laws of the state of Texas with its principal place of business in Dallas County, Texas.” Pet. at ¶ 2. Plaintiff’s members are Robert Imel and Richard Boyce, who are both residents, citizens and domiciliaries of the State of Texas.

4. Defendant Arena Investors LP is the sole member of Defendant 405 Arapahoe, LLC.

5. Defendant Arena Investors LP is comprised of Arena Investors GP, LLC, and Westaim Arena Holdings II, LLC.

6. Westaim Arena Holdings II, LLC is Arena Investors GP, LLC’s sole member.

7. The Westaim Corporation of America is Westaim Arena Holdings II, LLC’s sole member.

8. The Westaim Corporation of America is a citizen of Delaware, where it is incorporated, and New York, where its principle place of business is located.¹

¹ “[A] corporation shall be deemed to be a citizen of any State by which it has been incorporated and of the State where it has its principal place of business.” 28 U.S.C. § 1332(c)(1).

III.

VENUE

9. Venue is proper in this district under 28 U.S.C. § 1441(a) because the state court in which the removed case has been pending, the District Court of Dallas County, is located in the Northern District of Texas and is located within the Dallas Division of that court. *See* 28 U.S.C. § 124(a)(1); 28 U.S.C. § 1441(a).

IV.

REMOVAL ON DIVERSITY JURISDICTION GROUNDS

10. **Removal is proper. 28 U.S.C. § 1332.** Removal on diversity grounds requires that the plaintiff be a citizen of a different State from all defendants, and that the amount in controversy be over \$75,000. *Id.* For diversity purposes, the citizenship of unincorporated entities, such as a Limited Partnership (LP) and a Limited Liability Company (LLC), is determined by the citizenship of all of its members. *Americold Realty Tr. v. Conagra Foods, Inc.*, 136 S. Ct. 1012, 1016 (2016); *Harvey v. Grey Wolf Drilling Co.*, 542 F.3d 1077, 1080 (5th Cir. 2008). Plaintiff does not share the same citizenship as any one of the Defendants, and the amount in controversy exceeds \$75,000.00. Pet. at ¶ 7.

11. **Complete Diversity of Citizenship Exists Between Plaintiff and Defendants.** Plaintiff's members reside in Texas. Accordingly, Plaintiff is a citizen of the State of Texas. By contrast, based on the membership details, *see supra* Section II., Defendants are citizens of Delaware and New York for purposes of diversity jurisdiction. Therefore, complete diversity exists between the parties.

12. **The Amount-In-Controversy Requirement is Satisfied.** Plaintiff claims that it seeks relief over \$1,000,000. Pet. at ¶ 7. Because this amount exceeds \$75,000, removal on the basis of diversity should be allowed pursuant to 28 U.S.C. § 1441(b).

13. **Notice of Removal is Timely Filed.** This Notice is filed within thirty (30) days of service of the Petition and summons in the State Court Action and is, therefore, timely under 28 U.S.C. § 1446(b)(2)(B).

DOCUMENTS SUBMITTED WITH THIS NOTICE OF REMOVAL

14. Pursuant to 28 U.S.C § 1446 and Local Rule 81.1, the following documents are attached hereto as **Exhibit A**: all process served on Defendants, all pleadings and documents filed in the State Court Action, all orders signed by the state judge in the State Court Action, an index of all documents filed in the State Court Action, a copy of the docket sheet in the state court action, and a certificate of interested persons.

15. The parties to the State Court Action and the Court in the State Court Action are as follows:

Plaintiff, Monterey Resources, LLC	Counsel: Julie A. Pettit State Bar No. 24065971 jpettit@pettitfirm.com Craig Stoddart State Bar No. 19260950 cstoddart@pettitfirm.com David B. Urteago State Bar No. 24079493 durteago@pettitfirm.com Jane Cherry State Bar No. 24087292 jcherry@pettitlawfirm.com The Pettit Law Firm 2101 Cedar Springs, Suite 1540 Dallas, TX 75201 Telephone: (214) 329-0151
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Defendants, 405 Arapahoe, LLC and Arena Investors, LP	Counsel: Christopher B. Trowbridge E-mail: christophert@bellnunnally.com State Bar No. 24008182 Kristopher D. Hill E-mail: khill@bellnunnally.com State Bar No. 24066674 Bell Nunnally & Martin LLP 2323 Ross Avenue Suite 1900 Dallas, Texas 75201 Telephone: (214) 740-1400 Facsimile: (214) 740-1499
101 st Judicial District Court, Dallas County, Texas	Hon. Staci Williams 101 st District Court George L. Allen, Sr., Courts Bldg. 600 Commerce Street, Box 685 Dallas, Texas 75202 Telephone: (214) 653-6937

16. A copy of Defendants' Notice of Filing Notice of Removal directed to the state court and Plaintiff is attached hereto as **Exhibit B**. The Notice of Filing Notice of Removal will be promptly filed with the state court and served upon Plaintiff after filing of this Notice consistent with 28 U.S.C. § 1446(d).

If any question arises as to the propriety of the removal of this action, Defendants respectfully request the opportunity to submit briefing and oral argument and to conduct discovery in support of its position that subject matter jurisdiction exists.

WHEREFORE, Defendants respectfully request that the State Court Action be removed to the United States District Court for the Northern District of Texas, Dallas Division.

Respectfully submitted,

BELL NUNNALLY & MARTIN LLP

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ATTORNEYS FOR DEFENDANTS

CERTIFICATE OF SERVICE

On May 13, 2019, I electronically submitted the foregoing document with the Clerk of Court for the United States District Court, Northern District of Texas, using the electronic case filing system of the Court. I hereby certify that I have served all counsel of record electronically or by another manner authorized by Federal Rule of Civil Procedure 5(b)(2) as follows:

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ATTORNEY FOR PLAINTIFF

/s/ Christopher B. Trowbridge
Christopher B. Trowbridge

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